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09/835,738	04/16/2001	Jonathan Baker	10003909-1	5663

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EXAMINER

NEURAUTER, GEORGE C

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/835,738	BAKER, JONATHAN
	Examiner George C. Neurauter, Jr.	Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 December 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claims 1-20 are currently presented and have been examined.

Response to Arguments

Applicant's arguments filed 2 December 2004 have been fully considered but they are not persuasive.

The Applicant argues that Mastie does not disclose tracking or analyzing historical utilization information and only discloses current status information such as print queue depth. Mastie discloses:

"...[I]f the first criteria is based on selecting a logical printer queue of minimum depth, then the rule based criteria optimizes load balancing by insuring that queues are not over or under utilized." (column 3, lines 25-28)

"The...criteria may be a "queue depth rule" which considers the activity in the queue...This rule may consider the number of jobs in the queue...The queue depth rule maximizes the load balancing of the print workload because the queue depth rule selects those logical printers whose printers...have low use." (column 6, lines 29-48)

In view of the disclosures of Mastie and the claim's broadest reasonable interpretation, the print queue depth rule considers jobs that has been queued which is known to those in the art to contain data from past additions to the

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queue. By considering these past jobs added to the queue, Mastie can dynamically decide based on the jobs within the queue to optimize the operation of the network system so that the network system is not under or over utilized. Therefore, Mastie does disclose tracking or analyzing historical utilization information as claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6 498 656 B1 to Mastie et al.

Regarding claim 1, Mastie discloses a method for optimizing output device utilization on a network including at least one output device (referred to throughout the reference as "printer"), the method comprising:

(a) tracking historical utilization information ("status information" or "characteristics") for each output device (column 2, line 42-column 3, line 35, specifically column 2, lines 45-46); (b) analyzing the historical utilization information for optimization opportunities (column 8, line 63-column 9, line 5); and (c) configuring the network to exploit the optimization opportunities (column 2, line 42-column 3, line 35, specifically column 3, lines 6-35, specifically "insuring that queues are not over or under-utilized" or "minimizing network traffic")

Regarding claim 2, Mastie discloses the method of claim 1 wherein tracking historical utilization information includes:

(a) periodically retrieving the historical utilization information; and (b) archiving the retrieved historical utilization information. (column 2, lines 44-47)

Regarding claim 3, Mastie discloses the method of claim 1 wherein tracking historical utilization information includes tracking historical utilization information selectively from network print clients, network print servers and network output devices. (column 1, lines 30-32; column 8, line 63-column 9, line 5)

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Regarding claim 4, Mastie discloses the method of claim 1 wherein analyzing the historical utilization information includes searching selectively for underused and overused output devices. (column 2, line 42-column 3, line 35, specifically column 3, lines 6-35, specifically "insuring that queues are not over or under-utilized")

Regarding claim 5, Mastie discloses the method of claim 1 wherein analyzing the historical utilization information for optimization opportunities includes applying rules to the historical utilization information. (column 2, line 42-column 3, line 35, specifically column 2, lines 46-49 and column 2, line 63-column 3, line 35)

Regarding claim 6, Mastie discloses the method of claim 5 wherein applying rules to the historical utilization information includes selectively optimizing for lowest cost, highest quality, soonest output and output closest to an originating print client. (column 2, line 42-column 3, line 35, specifically column 3, lines 6-35, specifically "insuring that queues are not over or under-utilized" and "minimizing network traffic"; column 8, lines 50-56)

Regarding claim 7, Mastie discloses the method of claim 1 wherein configuring the network includes

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selectively configuring network print clients, network print servers and network output devices. (column 2, line 42-column 3, line 35, specifically column 3, lines 6-35, specifically "insuring that queues are not over or under-utilized" or "minimizing network traffic")

Claims 8-14 are also rejected since claim 8-14 recite a system that contains substantially the same limitations as recited in claims 1-7 respectively.

Claims 15-20 are also rejected since claims 15-20 recite a program storage device that contains substantially the same limitations as recited in claims 1-5 and 7 respectively.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn

A handwritten signature in black ink, appearing to read "William C. Vaughn, Jr." The signature is fluid and cursive, with "William" and "C." being more distinct, and "Vaughn, Jr." being more stylized.

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER